

AO 89-004



NORTH CAROLINA BOARD OF ETHICS

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**K D. KENNEDY, JR
CHAIRMAN**

July 27, 1990

Chief Dayne H. Brown
Radiation Protection Section
Diversion of Facility Services
Department of Human Resources
701 Barbour Drive
Raleigh North Carolina 27603-ZOOS

Regarding: Request for opinion on potential for conflict of interest
Dr. Robert G. Cockrell, Member of Radiation Protection
Commission dated July 19, 1989

Dear Mr. Brown:

We did not find actual or potential conflict of interest involving the
contract between Dr. Cockrell and Chem-Nuclear Systems-Wright
Patterson Air Force Base.

To avoid even the appearance of conflict of interest, Dr. Cockrell should abstain
from any discussions or votes before the Radiation Protection Commission
specifically involving Chem-Nuclear Systems, Inc., while he is contracting or
considering contracting with them.

We appreciate the opportunity to study this matter.

Sincerely,

K.D. Kennedy, Jr.
Chairman

cc: Dr. Robert G. Cockrell

North Carolina Department of Human Resources

Division of Facility Services

701 Barbour Drive • Raleigh, N. C. 27603-2008

James G. Martin, Governor

David T. Flaherty, Secretary

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M E M O R A N D U M

TO: K. D. Kennedy, Jr., Chairman
North Carolina Board of Ethics

FROM: Dayne H. Brown, Chief
Radiation Protection Section

DATE: July 19, 1989

SUBJECT: Request for Opinion on Potential for Conflict of
Interests in the Matter of a Proposed Contract Involving
Robert G. Cockrell, Ph.D.

Robert G. Cockrell, Ph.D. is a Voting Member of the Radiation Protection Commission, is currently serving as Vice Chairman, and has been nominated to serve as Chairman for the year ending June 30, 1990. He fills the position designated in G.S. 104E-8(3) for a member "who shall have experience in the field of atomic energy other than power generation."

Dr. Cockrell operates a Greensboro business, Cockrell & Associates, which provides consulting services in the radiation field. He has asked that I seek an opinion from the Board of Ethics concerning potential conflict of interest in a contract being contemplated with Chem-Nuclear Systems, Inc., Columbia, S.C. He is specifically interested in an opinion of:

- whether or not sufficient potential for or appearance of conflict exists to preclude entry into this contract, or
- whether or not simply abstaining from Commission discussions and votes in matters related to Chem-Nuclear Systems, Inc., would adequately avoid conflict of interest.

The contract would require Cockrell & Associates to provide consulting services to Chem-Nuclear Systems, Inc., in its contracted decommissioning (dismantlement and disposition) of a small nuclear research reactor at Wright-Patterson Air Force Base in Dayton, Ohio. This one-year contract is for up to \$5,000 and is renewable annually by mutual consent.

While this contract would not have appeared to constitute a problem under most previous circumstances, the following current factors would appear appropriate for Board of Ethics consideration in rendering the requested opinion:

1. The North Carolina Low-Level Radioactive Waste Management Authority (Authority) recently announced that it had designated Chem-Nuclear Systems, Inc., as the "preferred contractor" for siting, construction, 20-year operation, and closure of a regional low-level radioactive waste disposal facility. It is expected that the Authority will actually award the contract in the immediate future.
2. The Commission is indirectly involved with the Authority and its future contractor in the sense that the Commission promulgates, adopts, amends and repeals rules governing:
 - the siting, licensing, design, construction, operation, monitoring and closure of the disposal facility (The Commission has already adopted such comprehensive rules.) and
 - Radiation Protection Section (Section) licensing of waste generator access to the North Carolina disposal facility.
3. The Commission is responsible for concurring with the amount of Long-Term Care Fund monies required by the Authority for the North Carolina disposal facility in G.S. 104G-16.
4. The Section cannot issue a site North Carolina disposal facility access license to a waste generator, unless the Commission certifies to the Authority that the generator is reducing waste volume to the extent technologically and economically feasible (G.S. 104E-27).
5. By Statute (G.S. 104E-8), the Commission is predominantly made up of representatives of the radiation-using and low-level radioactive waste generating community. Hence, it appears to be intended that Commission have considerable, if not controlling, input by the regulated community in the establishment of radiation protection rules. Accordingly, the past convention has been for individual Commission members to participate fully in Commission rulemaking activities even when such rulemaking might more or less impact on the fields which they represent. However, any Commission member is expected to abstain from Commission discussions and formal actions which would uniquely involve any facility with which the member is affiliated or otherwise directly involved.

Your consideration of this request will be appreciated. In the meantime please let me know if you need additional information.